IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MMO No. 25 of 2007.

Date of Decision: 23rd August, 2007.

Ramneesh Kumar alias Lavallu .. Petitioner.

Versus

Dr. Parkash Chand Daroch and another .. Respondents.

Coram

The Hon'ble Mr. Justice V.K. Gupta, Chief Justice.

Whether approved for reporting?[1]

For the petitioner: Mr. Ashwani Sharma, Advocate.

For respondent No.1: Mr. Ramakant Sharma, Advocate.

For respondent No.2: Mr. P.M. Negi, Deputy Advocate General.

V.K. Gupta, CJ (Oral)

After hearing learned Counsel for the parties and on perusal of the impugned order dated 18th October, 2006 as passed by the learned Judicial Magistrate 1st Class, Court No.1, Amb, District Una, I find no reason to interfere in this case because the entire controversy between the parties revolves around the understanding of facts and the appreciation of evidence. Scope of interference by this Court either under Article 227 of the Constitution of India or Section 482 of the Code of Criminal Procedure is limited. In exercise of the powers vested in this Court under either of the aforesaid two provisions this Court cannot interfere in the proceedings at this stage.

Even though the impugned order dated 18th October, 2006 does not specifically say so, in view of Section 14 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with the relevant provisions of the Code of Criminal Procedure, the case has to be

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[1] Whether the reporters of Local Papers may be allowed to see the judgment?

committed by the learned Judicial Magistrate to the Special Court of competent jurisdiction constituted under Section 14 (supra). Whether the prosecution is maintainable or not owing to any defect in the investigation or otherwise is a plea which is available to the petitioner to be raised before the learned Special Judge at the stage of framing of the charge or at any subsequent stage of the proceedings, if so advised and permissible under law. If any such plea is raised at any appropriate stage of the proceedings, the learned Special Court is directed to deal with and decide such plea on its merits and in accordance with law. The petition is dismissed.

Cr.M.P. No.113 of 2007.

Interim order dated 2nd April, 2007 is vacated. The application is dismissed.

The parties through their learned Counsel are directed to appear before the learned Judicial Magistrate 1st Class, Court No.1, Amb on 10th October, 2007. On that date or soon thereafter the learned Magistrate shall pass appropriate orders in the light of the observations made and the directions contained in this judgment.

Cr.M.P. No.114 of 2007.

Infructuous.

August 23, 2007. **(V.K. Gupta), C.J.**
(rc)